

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esme Trontz	Team: Squad #7	CCRB Case #: 202005933	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 11:00 PM, Saturday, 05/30/2020 11:48 PM	Location of Incident: DeKalb Avenue and Flatbush Avenue Extension; 88th Precinct Stationhouse	Precinct: 84	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 08/28/2020 4:56 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 08/28/2020 4:56 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Bradley Arcos	14936	960170	088 PCT
2. Officers			
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Nicholas Gluth	07905	966079	073 PCT
2. LT Anthony Vassallo	00000	946361	088 PCT
3. DI William Glynn	00000	932718	081 PCT

Officer(s)	Allegation	Investigator Recommendation
B. An officer	Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, an officer used physical force against an individual.	
C. Officers	Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, officers used physical force against an individual.	
D. POM Bradley Arcos	Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, Police Officer Bradley Arcos used physical force against § 87(2)(b)	
E. Officers	Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, officers used physical force against § 87(2)(b)	
G. An officer	Discourtesy: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, an officer spoke discourteously to § 87(2)(b)	
H. An officer	Discourtesy: At the 88th Precinct stationhouse in Brooklyn, an officer spoke discourteously to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB on August 28, 2020 via the online portal.

On May 30, 2020, at approximately 11:00 p.m., § 87(2)(b) attended a protest in downtown Brooklyn with his friend, § 87(2)(b). As they approached Dekalb Avenue and Flatbush Avenue Extension, § 87(2)(b) observed an officer push a civilian off his bike, which he captured on cell phone video (**Allegation A: Physical Force, § 87(2)(g)**). He continued walking and observed a man on the ground being punched by three to four officers in front of the Junior's Cheesecake Restaurant (**Allegation B: Physical Force, § 87(2)(g)**). § 87(2)(b) watched the man for approximately 10-20 seconds as he tried to slowly approach him and record the interaction. Then, an officer in a white shirt approximately 15 feet from § 87(2)(b) whose appearance § 87(2)(b) did not recall, pointed at § 87(2)(b) and said, "Arrest him!" Police Officer Bradley Arcos from the 88th Precinct then allegedly shoved § 87(2)(b) three to four times, causing him to move back 15 feet and causing his back to hit the Junior's (**Allegation C: Physical Force, § 87(2)(g)**). Then, approximately three other officers, whose appearances § 87(2)(b) could not recall because they were all wearing helmets, came over to § 87(2)(b). One pushed his right shoulder down so that he fell to the ground, landing on his left knee and elbow, and then his stomach (**Allegation D: Physical Force, § 87(2)(g)**). Another pressed on his upper back with a part of their body § 87(2)(b) could not see. Another officer sat on § 87(2)(b)'s butt and upper legs for a few seconds, seemingly to keep him from getting up. An officer pulled § 87(2)(b)'s arms behind his back and rear-cuffed him. The officers allegedly left § 87(2)(b) on the ground face-down for several minutes, during which one officer who § 87(2)(b) couldn't see said, "Leave the loser there, we'll worry about him later" (**Allegation E: Discourtesy- Word, § 87(2)(b)**). Lieutenant Anthony Vassallo of the 88th Precinct saw § 87(2)(b) when he was cuffed and escorted § 87(2)(b) and Police Officer Arcos to an NYPD vehicle. Other officers transported § 87(2)(b) to the 88th Precinct stationhouse, and as he was being escorted inside, an officer allegedly said, "Fucking loser" (**Allegation F: Discourtesy- Word, § 87(2)(b)**). § 87(2)(b) was eventually released from the stationhouse with a summons for § 87(2)(a) 160.50, which Police Officer Arcos prepared (Board Review #01).

In addition to this case, the CCRB was simultaneously investigating three other cases that occurred at the same general date, time and location as this incident. 10 BWC videos were received for this case, including footage from Lieutenant Anthony Vassallo, which does not show any force being used against § 87(2)(b) (Board Review #02), and nine others from various officers, which likewise do not show any force being used against § 87(2)(b) (Board Review #23). One BWC request through CCRB case #202003790, and two requests through #202003881 and #202005197, were returned negative. Stationhouse footage from the 88th Precinct stationhouse, received through case #202003790, showed § 87(2)(b) briefly but has no audio (Board Review #12). At the time of this report, cases #202003790 and #202003881 were closed as officers unidentified.

§ 87(2)(b) provided a cell phone video capturing the unidentified officer pushing the civilian off the bike (Board Review #03).

Findings and Recommendations

Allegation (A) Force: An officer used physical force against an individual.

Allegation (B) Force: Officers used physical force against an individual.

Allegation (C) Force: Police Officer Bradley Arcos used physical force against § 87(2)(b)

Allegation (D) Force: Officers used physical force against § 87(2)(b)

Allegation (E) Discourtesy: Officers spoke discourteously to § 87(2)(b)

Known Facts and General Description

§ 87(2)(b) was interviewed via telephone on September 9, 2020 (Board Review #04). Contact attempts to § 87(2)(b) were unsuccessful. Police Officer Bradley Arcos was interviewed by the CCRB on January 8, 2021 (Board Review #05). Lieutenant Anthony Vassallo was interviewed by the CCRB on January 21, 2021 (Board Review #06). Police Officer Nicholas Gluth was interviewed by the CCRB on March 15, 2021 (Board Review #07). Deputy Inspector William Glynn was interviewed on September 17, 2021 (Board Review #18).

§ 87(2)(b) witnessed, and took a cell phone video of, an officer pushing a civilian off a bike in front of the Century 21 store at 445 Albee Square in Brooklyn, around the corner from Flatbush Avenue Extension and Dekalb Avenue (Board Review #03). Once he got to the Northwest corner, near the Junior's Cheesecake restaurant, he tried to take a video of three to four officers punching a man on the ground, but he accidentally stopped the recording on his phone. Police Officer Arcos began interacting with § 87(2)(b) somehow, and after a few minutes, an officer in a white shirt ordered Police Officer Arcos to arrest § 87(2)(b). Police Officer Arcos pushed § 87(2)(b) between one and four times, after which he and several other officers took him to the ground and cuffed him. As § 87(2)(b) allegedly laid on the ground for several minutes, an officer said, "Leave the loser there." When Police Officer Arcos escorted § 87(2)(b) to the 88th precinct stationhouse, an officer outside the stationhouse allegedly said, "Fucking loser."

Body-Worn Camera Footage and Other Video Evidence

The investigation submitted three requests for BWC footage through this case, the first of which was returned negative (Board Review #08) and the second of which resulted in Lieutenant Vassallo's single video (Board Review #02). The third request was returned on October 8, 2021 with 10 videos, one of which was a duplicate of Lieutenant Vassallo's video already received (Board Review #23). The investigation submitted, through case #202003790, three separate requests to the NYPD's Legal Bureau for body-worn camera (BWC) footage pertaining to this incident, which were all returned with negative results (Board Review #09). Another request through case #202003881 was also returned negative (Board Review #10).

The first request for this case, which included Police Officer Arcos' name, the number of the summons he issued to § 87(2)(b) the 84th and 88th precincts and a wide time range also came back negative (Board Review #08). Police Officer Arcos stated during his interview, and noted in his memo book, that his BWC ran out of power at 10:50 p.m. on the night of the incident. Lieutenant Vassallo's BWC, which was re-requested after his interview and then received on February 23, 2021, did not show § 87(2)(b)'s incident (Board Review #02). The 10 BWC videos received on October 8, 2021, one of which was a duplicate of Lieutenant Vassallo's video already received, were reviewed and did not pertain to § 87(2)(b)'s incident (Board Review #23).

The first request for case #202003790, which included the date, time, and location of occurrence, was returned negative after a search was conducted for commands SRG, Disorder Control, and the 70th Precinct (the initial complaint listed an incorrect location, which was in a different precinct) (Board Review #09). The second request included the name of a specific officer that was initially believed to be involved in the incident, in addition to searches from the 88th Precinct, SRG, and CRC, although the NYPD conducted the search for the incorrect date. The third request included 41 different precincts and another specific officer's name but still was returned negative.

The one request for case #202003881, which included a search for officers from the 88th precinct,

nearby Brooklyn SRG commands, the time, date, and location of the incident, and the complainant's social media accounts came back negative (Board Review #10).

The investigation was unable to obtain any other relevant footage. Footage from social media and the New York Times that was allegedly taken at the same approximate time and location of the incident was reviewed, but no officers who matched the description of the subject officer, nor civilians who appeared to be § 87(2)(b) were seen. A request through related case #202003790 for handheld TARU footage was returned as negative on July 15, 2020 (Board Review #11). Stationhouse Footage from the lobby of the 88th Precinct stationhouse, requested through case #202003790 and received on June 30, 2020, shows § 87(2)(b) being escorted into the stationhouse at 02:10 into the footage but does not show the outside of the building (Board Review #12). Fieldwork conducted on July 8, 2020 found that the Long Island University building at the incident location did not have footage and the Chinese restaurant "The Wei," caddy-corner to the incident location, appeared to be shut down (Board Review #13). A phone call on June 11, 2020 found that the cameras at the Junior's Cheesecake restaurant across Flatbush Avenue Extension from the incident location pointed away from the incident (Board Review #14). A phone call on July 1, 2020 found that the 7-11 near the incident did not have exterior cameras (Board Review #15). On August 25, 2020, video footage was received through case #202003790 from the Applebee's restaurant across DeKalb Avenue from the incident location, but the footage was from the wrong date and the correct footage had already been deleted.

NYPD Documents Reviewed

The detail rosters from Patrol Borough Brooklyn North lists officers from the following commands as being present at the protest: 75, 77, 79, 81, 83, 84, 88, 90, 94, 109, 110, 79 PDU, 81 PDU, 94 PDU, DBBX, VCS, HOT, QTS, CRD, MRS, MTS, BxTS, BTS, 207, 208, 296, HB, PSA 1-9, 541 and the Disorder Control Unit (Board Review #16). However, few of the detailed lists from each individual command include vital information such as the exact location officers were stationed and what times they were present. Additionally, the summons § 87(2)(b) received, as prepared by Police Officer Arcos, indicates: "§ 87(2)(a) 160.50

§ 87(2)(b)" (Board Review #01). The investigation determined that Police Officer Arcos likely miswrote the listed ICAD, as the EVENT #200503027247 corresponds to a call for ambulances needed for multiple injured MOS, and some complaints by civilians, at the time and place of the incident (Board Review #17). No additional useful information is provided by the EVENT.

Concurrent Investigations

At the time of this report, IAB Group 54 had a concurrent investigation for the same time and place of occurrence that was still ongoing but did not involve § 87(2)(b)'s incident. The IAB investigation involved the civilian whose complaint was investigated in case #202003881. Sergeant Colavito of IAB provided during a phone call on October 1, 2021 the names of officers whose BWCs were reviewed for the IAB case, which prompted the undersigned to request those BWC videos that were received on October 8, 2021 (Board Review #23). Those videos were reviewed and found not to show § 87(2)(b) or his incident.

Ranking Officers

All officers interviewed stated that they did not know or did not remember who the highest-ranking officer on scene was. Even when detail rosters indicated the specific locations officers were

assigned to, there was little guarantee that those officers would stay there. Additionally, the supervisors listed on detail rosters rarely showed a higher rank than Lieutenant. As seen in a screenshot from 4:32 into Lieutenant Vassallo's BWC footage, the highest-ranking officer identified at the protest was Deputy Inspector William Glynn of the 81st Precinct (Board Review #24). Deputy Inspector Glynn was interviewed by the CCRB on September 17, 2021 and did not remember any specific details about this incident nor about the rest of the protest (Board Review #18).

Officers Interviewed

Police Officer Arcos of the 88th Precinct, who was § 87(2)(b)'s arresting officer, was interviewed on January 8, 2021 (Board Review #05). Lieutenant Vassallo of the 88th Precinct, who was interviewed on January 21, 2021, did not witness § 87(2)(b)'s incident, but saw him after he was already in cuffs (Board Review #06). Police Officer Gluth, who was interviewed on March 15, 2021, did not recognize § 87(2)(b) nor witness any part of his incident (Board Review #07). Deputy Inspector Glynn, who was interviewed on September 17, 2021, did not recognize § 87(2)(b) nor witness any part of his incident (Board Review #18).

Allegation Recitation and Disposition

Allegation (C) Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, Police Officer Bradley Arcos used physical force against § 87(2)(b)

Police Officer Arcos and § 87(2)(b) both testified that there were at least hundreds of civilians and officers at the intersection, and that an officer in a white shirt ordered Police Officer Arcos to arrest § 87(2)(b). Neither § 87(2)(b) nor Police Officer Arcos remembered what the officer in the white shirt looked like.

§ 87(2)(b) testified that, a few seconds after he took out his phone to record the man on the ground being punched by officers, Police Officer Arcos turned toward him and slowly walked toward him while waving his baton from side to side. § 87(2)(b) could not think of any other reason that Police Officer Arcos' attention would have been specifically drawn to him other than that he was trying to record. § 87(2)(b) did not move at all as Police Officer Arcos moved toward him, and no officer issued him any commands. When Police Officer Arcos was approximately three to four feet from § 87(2)(b), § 87(2)(b) yelled, "You're not wearing a mask, please get out of my face." This was the only statement § 87(2)(b) made to Police Officer Arcos at that moment. Immediately, an officer in a white shirt approximately 15 feet from § 87(2)(b) whose appearance § 87(2)(b) did not recall, pointed at § 87(2)(b) and said, "Arrest him!" Without saying anything, Police Officer Arcos then ran toward § 87(2)(b) from three to four feet away and used both hands to push § 87(2)(b) three to four times on the chest, causing him to move back approximately 15 feet so that his back hit the outside wall of Junior's Cheesecake restaurant on the Northwest corner of the intersection. One of the shoves caused § 87(2)(b)'s glasses to fall off his face and land approximately seven to eight feet away. His face mask fell off at the same time. Either Police Officer Arcos or another officer he did not see pushed his right shoulder down so that he fell to the ground, landing on his left knee and elbow, and then he laid flat on his stomach. He believed the first contact with the ground caused his bloody and bruised left elbow, bloody left knee, and bruised left hip. Police Officer Arcos was present while § 87(2)(b) was being handcuffed but he did not know if he specifically cuffed him.

Police Officer Arcos testified that § 87(2)(b) was standing on the corner, screaming profanities at all the officers for a few minutes. He could not remember any specific statements or profanities, but

no one else near § 87(2)(b) was screaming. Police Officer Arcos did not know if anyone nearby appeared bothered by § 87(2)(b)'s screaming, nor did he believe a crowd formed around him. For a few minutes, Police Officer Arcos told § 87(2)(b) several times to leave the area, but he refused. A supervisor in a white shirt whose name Police Officer Arcos did not know then told him to arrest § 87(2)(b). Police Officer Arcos and approximately two to three other officers who he did not know approached § 87(2)(b). One of them told § 87(2)(b) he was being arrested. Police Officer Arcos testified that § 87(2)(b) waved his arms, though he could not clarify the nature of the waving. He did not think § 87(2)(b) was trying to hit him or anyone else and did not think he was a threat but said he "didn't know if he had a weapon." In response to the arm waving, PO Arcos pushed § 87(2)(b)'s chest one time, causing § 87(2)(b) to move back toward the Junior's Restaurant wall approximately one to two feet. PO Arcos testified that he pushed § 87(2)(b) to create safe distance between them. He did not know how far away from the restaurant wall § 87(2)(b) had been before he pushed him back. Shortly after, officers who Police Officer Arcos could not remember tried to put § 87(2)(b)'s arms behind his back, but he resisted slightly to prevent them from doing so. In response, PO Arcos and those other officers grabbed his arms, and potentially other parts of his body that PO Arcos could not remember. They took him down to the ground in a matter of a few seconds, and § 87(2)(b) fell onto the ground on his stomach. During the takedown, § 87(2)(b)'s glasses fell off. PO Arcos did not remember § 87(2)(b) mentioning anything about a dislocated shoulder or any specific pain or discomfort he was feeling at this time, nor could he remember any officers sitting on or pressing down on § 87(2)(b). § 87(2)(b) was quickly handcuffed, though PO Arcos could not remember if he cuffed § 87(2)(b).

Lieutenant Vassallo testified that the first and only time he saw § 87(2)(b) he was already in cuffs. He never saw § 87(2)(b) on the ground nor did he notice any injuries. Police Officer Arcos told him he was arrested because he was acting disorderly by failing to disperse per orders. Lieutenant Vassallo's BWC footage is consistent with this testimony (Board Review #06). Additionally, several officers in white shirts are seen in the BWC just before Lieutenant Vassallo sees § 87(2)(b) even if it were possible to identify any of them, there would be no way to narrow down which of those officers ordered Police Officer Arcos to arrest § 87(2)(b). Additionally, PO Gluth testified during his interview that he did not recognize § 87(2)(b) nor did he remember seeing him.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation (A) Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, an officer used physical force against an individual.

Allegation (B) Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, officers used physical force against an individual.

Allegation (D) Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, officers used physical force against § 87(2)(b)

Allegation (E) Discourtesy: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, an officer spoke discourteously to § 87(2)(b)

Allegation (F) Discourtesy: At the 88th Precinct stationhouse in Brooklyn, an officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) witnessed, and took a cell phone video of, an officer in a riot helmet pushing a civilian off a bike (Board Review #03). He did not believe the civilian provoked the officer in any way before he was pushed. The short video does not clearly show any interaction between the subject officer and the biker before the officer pushed them, but the officer can be seen facing the civilian, who was wearing a black shirt, pressing on their chest. Though it is not possible to distinguish the subject officer's helmet number, the number "7905" is seen on an officer standing a few feet behind the subject, as seen in a screenshot from the last few seconds of the video (Board Review #19). The shield number "7905" belonged to Police Officer Gluth, who confirmed during his interview that this officer was himself. However, he did not remember seeing the subject officer, whom he could not identify, pushing the civilian off the bike. He did not remember what, if anything, had occurred between the biker and the officer before the officer pushed them off the bike.

A couple of minutes later, as § 87(2)(b) approached the Junior's Cheesecake restaurant, he saw a man on the ground allegedly being punched by several officers. He could not see the man (and therefore did not know what he looked like), as the man was surrounded by officers, nor could he remember what the officers looked like. Starting at around 5:00 in Lieutenant Vassallo's BWC, a struggle between a civilian and several officers ensues near the Junior's, but because of the quality of the video and the speed at which everyone is moving, no distinguishing features of any individual can be seen (Board Review #02). Additionally, it is not guaranteed that the struggle captured was the one § 87(2)(b) described. As evidenced by the fact that the agency was investigating four separate incidents of alleged force at the same time, date, and intersection, it is highly difficult to narrow the possible pool of officers for any specific incident.

Then, as discussed in the section on **Allegation C**, neither § 87(2)(b) nor Police Officer Arcos knew who the other officers were who helped Police Officer Arcos take § 87(2)(b) to the ground and handcuff him. § 87(2)(b) did not see the officer who allegedly said, "Leave the loser there," when he was allegedly lying face-down on the ground while in handcuffs. Neither Police Officer Gluth nor Lieutenant Vassallo saw any officers make physical contact with civilians or heard an officer say, "Leave the loser there," and Police Officer Arcos denied hearing this statement.

Finally, § 87(2)(b) testified that he passed approximately 30 officers as he walked through the front door at the 88th Precinct stationhouse. He could not remember any of their appearances. Several officers teased § 87(2)(b) for his injuries; one officer said, "Oh, you got a little incident there!" § 87(2)(b) believed another officer said, "Fucking loser." Lieutenant Vassallo did not hear any officer say "Fucking loser" to § 87(2)(b) at the stationhouse and denied saying it himself. A request to STD for stationhouse footage from the 88th Precinct was returned only with footage from the front lobby and does not show the outer steps clearly (Board Review #12). A black male officer is seen at 02:10 escorting a man who appears to be § 87(2)(b) into the stationhouse, while dozens of officers are seen in the distance standing outside the front steps. Throughout the hour and a half-long video that has no sound, dozens of officers go into and out of the stationhouse. Because § 87(2)(b) could not remember what any of the officers looked like, it would be impossible to determine which officer allegedly said, "Fucking loser."

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review #20).
- Police Officer Arcos has been a member-of-service for five years and this is the first CCRB case in which he has been named a subject.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of May 13, 2021, the NYC Office of the Comptroller found no record of any Notices of Claim being filed regarding this complaint (Board Review #21).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review #22). OCA does not list any other convictions.

Squad: ____7____

Investigator:	____Esme Trontz____ Signature	____Inv. Esme Trontz____ Print Title & Name	____10/14/2021____ Date
Squad Leader:	____ Signature	____Manager Vanessa Rosen____ Print Title & Name	____October 18, 2021____ Date
Reviewer:	____ Signature	____ Print Title & Name	____ Date